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ABSTRACT

This document discusses Wisconsin state legislation on juvenile justice issues. In part I key provisions of these six bills are briefly described: (1) 1989 Assembly Bill 501, relating to a study of the use of small, secure juvenile facilities and youthful offender facilities; (2) 1989 Assembly Bill 502, relating to an early intervention program for high risk youths; (3) 1989 Assembly Bill 503, relating to a study of minimum education requirements at secured correctional facilities and child caring institutions; (4) 1989 Assembly Bill 504, relating to education transition programs for juvenile offenders; (5) 1989 Assembly Bill 505, relating to an intensive aftercare pilot program; and (6) 1989 Assembly Bill 538, relating to requiring aftercare plans and use of administrative procedures for revocation of aftercare. Committee activity in the areas of assignment, meetings, committee votes, council vote, and staff materials are summarized in part II. The background of each of the six bills is discussed and the requirements of the bills themselves are described in detail in part III. The appendix lists committee materials relating to staff memos and background material on the juvenile justice issues. (ABL)

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WISCONSIN LEGISLATIVE COUNCIL

REPORT NO. 11 TO THE 1989 LEGISLATURE

LEGISLATION ON JUVENILE JUSTICE ISSUES

1989 ASSEMBLY BILL 501, RELATING TO A STUDY OF THE USE OF SMALL, SECURE JUVENILE FACILITIES AND YOUTHFUL OFFENDER FACILITIES

1989 ASSEMBLY BILL 502, RELATING TO AN EARLY INTERVENTION PROGRAM FOR HIGH RISK YOUTHS

1989 ASSEMBLY BILL 503, RELATING TO A STUDY OF MINIMUM EDUCATION REQUIREMENTS AT SECURED CORRECTIONAL FACILITIES AND CHILD CARING INSTITUTIONS

1989 ASSEMBLY BILL 504, RELATING TO EDUCATION TRANSITION PROGRAMS FOR JUVENILE OFFENDERS

1989 ASSEMBLY BILL 505, RELATING TO AN INTENSIVE AFTERCARE PILOT PROGRAM

1989 ASSEMBLY BILL 538, RELATING TO REQUIRING AFTERCARE PLANS AND USE OF ADMINISTRATIVE PROCEDURES FOR REVOCATION OF AFTERCARE

Legislative Council Staff
State Capitol
Madison, Wisconsin

September 18, 1989

RL 89-11

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WISCONSIN LEGISLATIVE COUNCIL
REPORT NO. 11 TO THE 1989 LEGISLATURE*

LEGISLATION ON JUVENILE JUSTICE ISSUES

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PART I

KEY PROVISIONS OF LEGISLATION

A. 1989 ASSEMBLY BILL 501, RELATING TO A STUDY OF THE USE OF SMALL, SECURE JUVENILE FACILITIES AND YOUTHFUL OFFENDER FACILITIES

Requires the Department of Health and Social Services (DHSS) to contract for two studies:

1. A study of the feasibility and potential benefits of replacing beds in the current secured juvenile correctional facilities with beds in small, secure facilities which are located close to juvenile offenders' home communities.

2. A study of the feasibility and potential benefits of creating one or more youthful offender facilities in the state.

B. 1989 ASSEMBLY BILL 502, RELATING TO AN EARLY INTERVENTION PROGRAM FOR HIGH RISK YOUTHS

Directs the DHSS to award grants, totaling $6 million in the 1989-91 biennium, to selected counties to provide early intervention programming for youths at high risk of later serious delinquent behavior.

C. 1989 ASSEMBLY BILL 503, RELATING TO A STUDY OF MINIMUM EDUCATION REQUIREMENTS AT SECURED CORRECTIONAL FACILITIES AND CHILD CARING INSTITUTIONS

Requires the Department of Public Instruction (DPI) to conduct a study of the educational programming at secured juvenile correctional facilities and child caring institutions and to make recommendations to the Legislature on minimum educational requirements for such programming.

D. 1989 ASSEMBLY BILL 504, RELATING TO EDUCATION TRANSITION PROGRAMS FOR JUVENILE OFFENDERS

Directs the DHSS to award grants, totaling $1 million in the 1989-91 biennium, to school districts to provide education transition programs for youths under the age of 17 who return to high school after release from a secured juvenile correctional facility or a child caring institution.

E. 1989 ASSEMBLY BILL 505, RELATING TO AN INTENSIVE AFTERCARE PILOT PROGRAM

Directs the DHSS to establish an intensive aftercare pilot program, funded by a $1.4 million appropriation in the 1989-91 biennium. Pilot program components must include an aftercare case manager; preparation of an aftercare plan; a minimum number of supervisory contacts; and a broad array of services and programs for youths on aftercare participating in a program.

F. 1989 ASSEMBLY BILL 538, RELATING TO REQUIRING AFTERCARE PLANS AND USE OF ADMINISTRATIVE PROCEDURES FOR REVOCATION OF AFTERCARE

1. Requires the DHSS or a county department providing aftercare supervision to develop an aftercare plan for a child who is released from a secured juvenile correctional facility, prior to the youth's release.

2. Establishes a new administrative procedure, to be used when revoking the aftercare status of the youth and returning the youth to a secured juvenile correctional facility.

PART II

COMMITTEE ACTIVITY

A. ASSIGNMENT

The Legislative Council established the Special Committee on Juvenile Justice Issues by a May 25, 1988 mail ballot, based on an April 29, 1988 letter from Representative Rebecca Young.

The Special Committee was directed to study the cost-effectiveness of current and alternative dispositions of juveniles and judicial and administrative procedures utilized in delinquency proceedings, including the authority and procedures for pretrial detention.

The membership of the Special Committee was appointed by July 1 and July 20, 1988 mail ballots and consisted of two Senators, seven Representatives and 10 Public Members.

B. SUMMARY OF MEETINGS

The Special Committee held eight meetings at the State Capitol, in Madison, on the following dates:

August 29, 1988	December 22, 1988
September 22, 1988	January 23, 1989
October 27, 1988	February 23, 1989
December 1, 1988	March 23, 1989

At its initial meeting on August 29, 1988, the Special Committee heard testimony from Chris Baird, National Council on Crime and Delinquency (NCCD), Madison. Mr. Baird presented information on the results of the NCCD's Wisconsin juvenile classification study which was directed at determining whether a significant portion of the current juvenile institutional population can be safely and effectively supervised in community-based programs. He also discussed the use by other states of smaller juvenile facilities as alternatives to large secured juvenile correctional facilities, such as Ethan Allen and Lincoln Hills. He cited Massachusetts and Utah as states that have substantially reduced the number of secure placements of juveniles without endangering the public safety.

At its September 22, 1988 meeting, the Committee heard testimony from the following invited speakers: (1) Thomas Brophy, Director, Milwaukee County Human Services Department; (2) N. Clark Earl, Director, and James Kennedy, Deputy Director, Kenosha County Department of Social Services;

(3) Tracey Priestley, Waukesha County Community Human Services Department; and (4) Jane Leffler, Chippewa County Department of Social Services.

These speakers provided information on community-based services and programs for juvenile offenders developed by and implemented in their counties and the results of recent evaluations of such services and programs. In addition, the speakers, as a panel, discussed:

1. Whether alternatives to the current state Youth Aids funding are necessary to provide adequate incentives to counties to provide a range of effective community-based programs;

2. Whether a statewide classification system, such as the one suggested by the NCCD study, would be a useful tool in determining secure care needs for juvenile offenders; and

3. What can be done to improve the coordination between the juvenile justice system and other human services systems.

At the October 27, 1988 meeting, the Committee heard testimony from the following invited speakers: (1) Ken Streit, Planning Analyst, Division of Policy and Budget, DHSS; and (2) Chuck Wilhelm, then Deputy Director, Bureau of Budget, Division of Policy and Budget, DHSS.

Mr. Streit discussed the history of Youth Aids and the current county experience with Youth Aids.

Mr. Wilhelm provided information on a DHSS study of the use of performance standards in Youth Aids programming, noting that the Legislature, in 1987 Wisconsin Act 27, directed the DHSS to: (1) develop performance standards, with the assistance of county representatives and human services advocates; (2) recommend how the standards could be used; and (3) identify information that should be collected in order to effectively use the standards.

Mr. Wilhelm summarized the Youth Aids Performance Indicators Advisory Committee report which resulted from that study. He also provided the Committee with various data collected by the DHSS relating to Youth Aids; and he summarized the DHSS budget proposal for the 1989-91 biennium relating to Youth Aids.

At the December 1, 1988 meeting of the Committee, invited testimony was received from the following speakers: (1) John Ross, Director, Bureau of Juvenile Services, Division of Corrections, DHSS; and (2) Cheryl Huenink, Director, and Andy Benedetto, Children's Services, Bayfield County.

Mr. Ross discussed the DHSS's Early Release and Intensive Supervision (ERIS) program and the juvenile correctional system, noting that the ERIS program involves releasing the better-behaved youths from the institutions and subjecting them to very strict and intensive supervision. He also discussed the advantages and disadvantages of the use of smaller juvenile facilities instead of large juvenile correctional facilities.

Ms. Huenink and Mr. Benedetto discussed community-based programs for juvenile offenders which have been developed in Bayfield County. They noted that, under the Youth Aids system, in a small county such as Bayfield, even if there are only a few youths in juvenile correctional facilities, there is little or no money left to provide community programs.

In addition to invited testimony, the Committee began its discussion of: (1) how to make the juvenile justice system more accountable; and (2) how to give counties, which are currently at risk financially under the Youth Aids system, more responsibility and control over what happens in the juvenile justice system.

At the December 22, 1988 meeting, the Committee discussed:

1. The need for additional information which would be useful to planners in the juvenile justice system and the need for an evaluation of current local programming;

2. Suggestions for improving the links between counties, juvenile corrections, the school systems and community programs, including the need for transitional education programming for youths released from juvenile correctional institutions who return to high school or vocational education; and

3. The possibility of permitting counties to pay different rates for different levels of programming in juvenile correctional facilities, reflecting levels of service and the rates charged.

The Committee also heard testimony from Don Schmidt, Director of the JORP, DHSS, on the need for possible changes in the JORP and the relationship between the JORP and the counties.

At the January 23, 1989 meeting, Chairperson Young established a Subcommittee on Aftercare and a Subcommittee on Education. Appendices 1 and 2 list the members of each Subcommittee.

The Committee discussed the possibility of requiring the DHSS to develop a risk assessment or classification instrument to be used: (1) by juvenile court personnel in making recommendations to the court concerning

a youth's needs and placement; (2) to aid planners and policymakers in making future decisions about the juvenile justice system; or (3) to assist the state in evaluating county programs.

The Committee also discussed the use of a "circuit breaker" mechanism to keep institutional placements from eroding community-based programs. Under a "circuit breaker" provision, the state could be required to pay for a certain percentage of correction charges for assaultive delinquents from a county, if those charges exceed a threshold proportion of the county's Youth Aids expenditures.

In addition, the Committee discussed developing a program targeted at youths who are at risk of later serious delinquent behavior and who live in areas of the state with the highest rates of placements to juvenile corrections and child caring institutions.

The Committee also discussed: (1) the need for a feasibility study to determine whether the state can have a more effective juvenile correctional program, if it breaks up the two largest institutions into smaller regional facilities closer to the youths communities; and (2) allowing a county to contract with the state for the level of services to be provided by the state for a youth committed to juvenile corrections for that county.

The Committee heard invited testimony from: (1) the Honorable Marianne Becker and the Honorable James Kieffer, Circuit Judges, Waukesha County; and (2) N. Clark Earl, Director, Kenosha County Department of Social Services.

Judges Becker and Kieffer discussed the changes in ch. 48, Stats. (the Children's Code), proposed by a committee of Wisconsin Circuit Court Judges, including proposals to permit up to 30 days secured detention as a dispositional option available to judges and to delete the "least restrictive" language with reference to dispositions.

Mr. Earl distributed a document to the Committee entitled "Recommendations for a More Effective Juvenile Justice System in Wisconsin," dated January 23, 1989, prepared by the Urban Caucus (an affiliation of the human services and social services directors of Wisconsin's largest counties). He summarized the recommendations in the document, including development and adoption of a juvenile classification system; elimination of state provided aftercare; increased funding for aftercare; and allocating sufficient money for management information systems for planning and monitoring.

At the February 23, 1989 meeting, the Committee discussed the recommendations of the Subcommittee on Education and the Subcommittee on Aftercare. The recommendations of the Subcommittee on Education included:

1. Providing incentives to school districts to provide transition programs and services for juvenile offenders returning to high school or alternative educational programming (e.g., vocational school); and

2. Requiring a study of the education programming provided at juvenile correctional institutions and the need for minimum education standards for such programming.

Recommendations of the Subcommittee on Aftercare included creation of an intensive aftercare pilot program, a requirement for aftercare plans and county use of administrative revocation procedures.

The Committee also discussed bill drafts relating to: (1) requiring a study of the use of small, secure juvenile facilities and the creation of one or more youthful offender facilities; (2) creating an early intervention program for certain youths at high risk of later serious delinquent behavior; (3) reducing charges to counties for juvenile correctional facilities services; and (4) authorizing counties to contract for special treatment program services for certain juvenile offenders.

At its March 23, 1989 meeting, the Special Committee discussed and recommended to the Legislative Council a series of bill drafts relating to topics discussed at prior meetings. The Committee agreed that Chairperson Young could combine the drafts as she deemed necessary. Subsequently, Chairperson Young combined drafts relating to aftercare, resulting in the six drafts recommended to the Legislative Council for introduction. Those six bill drafts are described in Part II, above.

C. COMMITTEE VOTES

1. 1989 Assembly Bill 501

At its March 23, 1989 meeting, the Special Committee on Juvenile Justice Issues voted to recommend WLCS: 550/2 to the Legislative Council on a unanimous voice vote. This bill draft has been introduced as 1989 Assembly Bill 501.

2. 1989 Assembly Bill 502

By an April 3, 1989 mail ballot, the Special Committee on Juvenile Justice Issues voted to recommend WLCS: 551/3 on a vote of Ayes, 17 (Sens.

Te Winkle and Lorman; Reps. Young, Barca, Bock, Holschbach, Rosenzweig and Schneiders; and Public Members Arnesen, Chier, Dragisic, Earl, Groen, Harper, Moore, Rice and Stokes); Noes, 1 (Rep. Welch); and Not Voting, 1 (Public Member McCann). This bill draft has been introduced as 1989 Assembly Bill 502.

3. 1989 Assembly Bill 503

By an April 3, 1989 mail ballot, the Special Committee on Juvenile Justice Issues voted to recommend WLCS: 564/3 on a vote of Ayes, 18 (Sens. Te Winkle and Lorman; Reps. Young, Barca, Bock, Holschbach, Rosenzweig, Schneiders and Welch; and Public Members Arnesen, Chier, Dragisic, Earl, Groen, Harper, Moore, Rice and Stokes); Noes, 0; and Not Voting, 1 (Public Member McCann). This bill draft has been introduced as 1989 Assembly Bill 503.

4. 1989 Assembly Bill 504

By an April 3, 1989 mail ballot, the Special Committee on Juvenile Justice Issues recommended WLCS: 578/2 on a vote of Ayes, 15 (Sen. Te Winkle; Reps. Young, Barca, Bock, Holschbach and Rosenzweig; and Public Members Arnesen, Chier, Dragisic, Earl, Groen, Harper, Moore, Rice and Stokes); Noes, 3 (Sen. Lorman; and Reps. Schneiders and Welch); and Not Voting, 1 (Public Member McCann). This bill draft has been introduced as 1989 Assembly Bill 504.

5. 1989 Assembly Bill 505

By an April 3, 1989 mail ballot, the Special Committee on Juvenile Justice Issues recommended WLCS: 589/2 on a vote of Ayes, 17 (Sen. Te Winkle; Reps. Young, Barca, Bock, Holschbach, Rosenzweig, Schneiders and Welch; and Public Members Arnesen, Chier, Dragisic, Earl, Groen, Harper, Moore, Rice and Stokes); Noes, 1 (Sen. Lorman); and Not Voting, 1 (Public Member McCann). This bill draft has been introduced as 1989 Assembly Bill 505.

6. 1989 Assembly Bill 538

1989 Assembly Bill 538 combines two proposals (WLCS: 588/2 and WLCS: 595/2) acted on separately by the Special Committee on Juvenile Justice Issues.

WLCS: 588/2, relating to county use of administrative procedures for revocation of aftercare, was recommended by the Special Committee on Juvenile Justice Issues, by an April 3, 1989 mail ballot, on a vote of Ayes, 18 (Sens. Te Winkle and Lorman; Reps. Young, Barca, Bock, Holschbach, Rosenzweig, Schneiders and Welch; and Public Members Arnesen, Chier, Dragisic, Earl, Groen, Harper, Moore, Rice and Stokes); Noes, 0; and Not Voting, 1 (Public Member McCann).

WLCS: 595/2, relating to requiring aftercare plans for certain juvenile offenders released from juvenile correctional facilities, was recommended by the Special Committee on Juvenile Justice Issues, by an April 3, 1989 mail ballot, on a vote of Ayes, 17 (Sens. Te Winkle and Lorman; Reps. Young, Barca, Bock, Holschbach, Rosenzweig and Schneiders; and Public Members Arnesen, Chier, Dragisic, Earl, Groen, Harper, Moore, Rice and Stokes); Noes, 1 (Rep. Welch); and Not Voting, 1 (Public Member McCann).

D. COUNCIL VOTE

At its June 14, 1989 meeting, the Legislative Council voted to introduce all six proposals in the 1989 Legislative Session by a vote of Ayes, 14 (Sens. Risser, Chilsen, Czarnezki, Ellis, Helbach, Kreul, Moen and Strohl; and Reps. Clarenbach, Coggs, Gruszynski, Hauke, Tregoning and Zien); Noes, 2 (Reps. Panzer and Prosser); and Absent, 5 (Sens. Davis and George; and Reps. Loftus, Kunicki and Tesmer).

E. STAFF MATERIALS

The Appendix lists all materials received by the Special Committee and the Subcommittees on Education and Aftercare. The following documents, prepared by Legislative Council Staff, may be of particular interest. These, as well as other materials listed in the Appendix, are available at the Legislative Council offices:

- Research Bulletin 88-1, Juvenile Offender Dispositions and Waiver of Juvenile Court Jurisdiction Under the Wisconsin Children's Code (August 4, 1988).
- MEMO NO. 2, Procedures Relating to Aftercare Placement and Revocation of Aftercare (October 26, 1988).
- MEMO NO. 3, Recommendations of the Subcommittee on Education (February 22, 1989).
- MEMO NO. 4, Recommendations of the Subcommittee on Aftercare (February 22, 1989).

PART III

DESCRIPTION OF BILLS

A. 1989 ASSEMBLY BILL 501, RELATING TO A STUDY OF THE USE OF SMALL, SECURE JUVENILE FACILITIES AND YOUTHFUL OFFENDER FACILITIES

1. Background

Currently, the state has two large secured juvenile correctional facilities, Ethan Allen (located in Wales) and Lincoln Hills (located in Irma), with a combined population of over 500 youths. During its deliberations, the Special Committee received information about states, such as Massachusetts and Utah, which have dramatically changed their secured juvenile correctional systems. In general, these changes involved:

a. Closing the large secured juvenile correctional facilities in the state.

b. Establishing a few small, high-security treatment units for violent youth and youth who repeatedly commit serious delinquent acts.

c. Developing a variety of community-based programs that allow for individual treatment and adequate security; these programs are primarily offered by private providers under contract with the state.

d. Using the moneys formerly used to run the juvenile correctional institutions to finance community-based programs.

Studies have indicated that this approach has been successful and that smaller facilities, located closer to juvenile offenders' home communities, can provide more effective programming than large juvenile correctional facilities, such as Ethan Allen and Lincoln Hills.

Special Committee members expressed an interest in the use of youthful offender facilities to house young adult criminal offenders (those under age 21) in a correctional institution separate from the general adult criminal population. Such facilities not only separate individuals who are still in their formative years from the influence of the older adult criminal population, but also make it easier to provide specialized correctional programs directed at young offenders.

2. Description of Bill

1989 Assembly Bill 501 requires the DHSS to contract with a public or private person or entity to conduct a study of the feasibility and potential benefits of replacing beds in the current two secured juvenile correctional facilities with beds in small, secure facilities which are located close to juvenile offenders' home communities.

The Bill also requires the DHSS to include in the contracted study a determination of the feasibility and potential benefits of creating one or more youthful offender facilities in the state to separate, from the general adult criminal population, juvenile offenders who have been waived into adult court and certain young adult criminal offenders.

Finally, the Bill requires the study to include a determination of the feasibility and potential benefits of using the current secured correctional facilities as youthful offender facilities, if one or more of the juvenile correctional facilities are replaced by small, secure facilities.

Under the Bill, the DHSS must report the results of the study to the standing committees of the Legislature with jurisdiction over juvenile justice and adult corrections issues on or before December 31, 1990.

B. 1989 ASSEMBLY BILL 502, RELATING TO AN EARLY INTERVENTION PROGRAM FOR HIGH RISK YOUTHS

1. Background

During its first several meetings, the Special Committee heard testimony from a number of invited speakers describing model programs that divert youths from delinquent behavior or from correctional placements. These model programs are operated in counties throughout Wisconsin as well as in other states. Committee members heard testimony that the programming that is available to a youth, after the youth has been adjudicated delinquent for a serious offense, is considered too late in the youth's development to make a significant change in the youth's behavior as the youth develops into young adulthood.

The members of the Special Committee concluded that more resources and programming should be made available at earlier stages of a youth's development, before these youths embark on serious delinquent careers. It is difficult for most counties to provide meaningful programs because the high cost of correctional placements of youths tends to divert the bulk of counties' available funding away from earlier, lower-cost intervention strategies.

Committee members concluded that youths who are the highest risk of later involvement of serious delinquent behavior could be identified at an early age through proper use of a risk assessment instrument. Once identified, these youths should be directed to various types of intensive intervention programming and services. Committee members agreed that these programs and services should include intensive school and school-related programming, as well as structured after-school, evening, weekend and summer activities. These activities should include counseling, recreation and tutoring.

Committee members agreed that it is important to provide intervention funding outside of the Youth Aids funding mechanism. Funding should be available in the form of grants to allow certain counties with a high proportion of these high risk youths to build the counties' capacity to provide effective intervention programming. Committee members concluded that any expenditure in this type of programming would eventually lead to the reduction of funds necessary later on for more costly correctional services.

In developing an early intervention proposal, the Special Committee was aware of the existence of considerable anecdotal evidence, but the shortage of quantitative data, showing the effectiveness of early intervention-type programming in lowering the rate of recidivism of participating youths in reducing the seriousness of any later offenses committed. Accordingly, the Committee members agreed that it was important to include an evaluation component in an early intervention grant program to assist the DHSS and the Legislature in evaluating the effectiveness of the programming.

2. Description of Bill

1989 Assembly Bill 502 directs the DHSS to award grants to selected counties to provide early intervention programming for high risk youths. A high risk youth is defined under the Bill as a child age 8 to 11 who: (a) has been adjudicated a child in need of protection or services; and (b) receives a minimum score, as determined by the DHSS, on a risk assessment instrument directed at identifying those youths who are at high risk of later involvement in serious delinquent acts. The Bill appropriates $2 million in 1989-90 and $4 million in 1990-91 to fund the program.

The Bill also specifies that the risk assessment instrument, to be created by the DHSS by administrative rule, must include certain factors, such as the youth's prior delinquent behavior; prior drug or alcohol abuse; family environment; school disciplinary problems; peer

relationships; and the presence of older siblings who are serious offenders.

The Bill requires the DHSS to promulgate an administrative rule setting forth the criteria for the selection of counties to receive grants for early intervention programs. Counties receiving these funds must use the funds to assess youths to determine if they are high risk youths eligible for the new programming. The county must also use the funds to provide participating high risk youths with intensive school and school-related programming and structured after-school, evening, weekend and summer activities, including counseling, recreation and tutoring. In providing these programs and services, a county must give priority to those youths receiving the highest scores on the risk assessment instrument.

Finally, the Bill contains an evaluation component, requiring the DHSS to collect and analyze information concerning early intervention programs and the youths served by these programs. The DHSS is required to submit a report analyzing this information and evaluating the effectiveness of these programs to: (a) the Governor; (b) the standing committees with jurisdiction over juvenile justice issues in each house of the Legislature; and (c) the Joint Committee on Finance. The reports must be submitted on or before June 30, 1992.

C. 1989 ASSEMBLY BILL 503, RELATING TO A STUDY OF MINIMUM EDUCATION REQUIREMENTS AT SECURED CORRECTIONAL FACILITIES AND CHILD CARING INSTITUTIONS

1. Background

Currently, the DPI participates in the School Evaluation Consortium which provides periodic evaluations of Wisconsin schools. However, no similar evaluation of education programming at the juvenile correctional institutions is performed. Also, no minimum educational standards are imposed by DPI or DHSS on education programming in the institutions.

The Committee concluded that the DPI should be more directly involved in monitoring and setting minimum educational standards for education programming at the correctional facilities.

2. Description of Bill

1989 Assembly Bill 503 requires the DPI to conduct a study of the education programming at secured correctional facilities and child caring

institutions and make recommendations to the Legislature on minimum educational requirements for such programming.

The Bill requires the DPI to submit its findings and recommendations on minimum requirements by January 1, 1991 or the first day of the 12th month after enactment of the Bill into law, whichever occurs later.

D. 1989 ASSEMBLY BILL 504, RELATING TO EDUCATION TRANSITION PROGRAMS FOR JUVENILE OFFENDERS

1. Background

At several meetings of the Special Committee, members heard testimony from county and school personnel describing the special challenges that are presented when youths return to the community from correctional or other residential placements and attempt to become absorbed back into the school system.

Committee members discussed at length the problem of trying to coordinate a youth's education programming while in a juvenile correctional facility with the youth's school programming upon the youth's return to the community. The high level of turnover in the correctional facilities, coupled with the fact that the youths are released from correctional facilities at all times throughout the school year, work to discourage significant coordination between correctional education programming and public school programming. Many youths, in fact, do not return to school after release from a correctional placement and few school districts attempt to reintegrate these youths.

In its discussions regarding improving the links between state juvenile corrections and the public school system, Special Committee members were informed that, several years ago, a federally-funded "teacher liaison" program provided a liaison between the institutions and the Milwaukee Public School System. The funds for the liaison program have been discontinued and, although proposals to provide state funding to continue the program have been offered, no action has been taken to continue the program. Also, Committee members were informed that the Madison Metropolitan Public School District is in the process of developing transition programs for youths returning to high school from out-of-home placements, including residential treatment, corrections, alcohol and other drug abuse treatment, secure detention and shelter care.

The Committee concluded that state funding should be provided to allow school districts, on a pilot basis, to establish an education transition program. The Committee determined that funding should not be earmarked for a specific type of program, such as a liaison program or a

transition program, but should be made available to school districts to develop their own programs based on the needs of the applying district. The Committee determined that funding should be available in the form of grants to school districts to promote the establishment of educational programs and services directed at youths returning from a secured correctional facility or from a child caring institution.

2. Description of Bill

1989 Assembly Bill 504 creates a grant program in DPI for school districts to provide educational transition programming for youths under 17 years of age who return to high school after release from either: (a) a secured correctional facility; or (b) a child caring institution, if the youth was in a secured correctional facility immediately prior to his or her stay in the child caring institution.

Although the grants would go to a school district, the Bill requires the school district and the county social services department to apply jointly for the funding. The joint participation in preparation of the application will help to ensure that the school district cooperates with the county department, which will provide social services for youths, in developing and providing the youth's programming and services.

The Bill specifies that the goals of the grant program are to have all, or a substantial percentage of, participating youths meet minimum school or equivalent program attendance requirements and show progress toward high school graduation or its equivalent. The DPI is required to develop, by rule, the conditions and requirements of the grant program, consistent with these statutory goals, as well as criteria for awarding the grants.

The Bill requires the DPI to collect and analyze information concerning transition programming developed by school districts and the youths served by this programming. The DPI may enter into a contract with a person or agency for this program. This information and an evaluation of the grant program must be submitted to the Governor and the Legislature on or before December 31, 1991.

The Bill creates an appropriation of $500,000 in each year of the biennium to fund the education transition program for juvenile offenders.

E. 1989 ASSEMBLY BILL 505, RELATING TO AN INTENSIVE AFTERCARE PILOT PROGRAM

1. Background

One of the primary goals of the Committee was to develop a proposal to improve the effectiveness of aftercare programs in reducing the rate of recidivism of youths released from corrections. Testimony from invited speakers indicated that the intensity of aftercare programming varies widely throughout the state. The Committee also heard testimony that there are sometimes delays in releasing a youth from a correctional facility, even though the youth has been determined to be no longer in need of secure correctional supervision, because there is often difficulty in placing youths in community aftercare programs. The difficulty in placing youths into aftercare programs stems from a number of factors, including:

a. Lack of coordination between aftercare program managers and the secured correctional facility while the youth is in the facility;

b. Reluctance on the part of some communities to accept youths back into the community who have committed more serious delinquent offenses; and

c. Lack of sufficient funding to establish comprehensive community programming, due to the high cost of institutional care.

Committee members heard testimony regarding the Early Release Intensive Supervision (ERIS) program, an aftercare program operated by the DHSS, Division of Corrections, that provides a higher level of intensity of supervision. Committee members also received information on programs in Kenosha and Waukesha Counties, and programs in other states, that have been effective in reducing the rate of juvenile recidivism. These programs tend to be most effective if they provide frequent supervisory contacts (i.e., at least once daily) and involve the youths in community and school activities.

2. Description of Bill

1989 Assembly Bill 505 requires the DHSS to create, on a pilot basis, an intensive aftercare program. Pilot program components must include an aftercare case manager who will act as a liaison between the program and the secured correctional facility or child caring institution before the child participating in the program is released on aftercare. The case manager will also coordinate supervision of, and service and programs for, the child while on aftercare.

Under a pilot program, an aftercare plan must be developed, specifying the services and programs for program participants, including school tutoring and other educational services; vocational training and counseling; alcohol and other drug outpatient treatment and education; family counseling; employment services; recreational opportunities; and assistance with independent living arrangements.

A key provision of the Bill requires that aftercare supervision under the pilot program must include at least one face-to-face contact per day, per program participant. The Bill also specifies that intensive aftercare must be provided to each participant for a period of not less than 90 days.

Pilot grant recipients are to be selected on a request for proposal basis. Grants are to be awarded to county departments administering Youth Aids. Counties may apply singly or jointly. Counties with a population of more than 500,000 (Milwaukee County) may apply to operate the program in a geographic area smaller than a county.

The Bill provides $700,000 general purpose revenue (GPR) in each year of the biennium to fund the intensive aftercare pilot programs. The Bill requires the DHSS, or an organization selected by the DHSS, to conduct an evaluation, in each pilot county, of the effectiveness of the program in meeting the county's goal of lowering the rate of recidivism of program participants.

F. 1989 ASSEMBLY BILL 538, RELATING TO REQUIRING AFTERCARE PLANS AND USE OF ADMINISTRATIVE PROCEDURES FOR REVOCATION OF AFTERCARE

1. Background

Currently, when the custody of a youth is transferred to the DHSS for placement in a secured correctional facility, representatives of the correctional facility, the county from which the youth is transferred and the Juvenile Offender Review Program (JORP) perform an initial assessment of the youth's placement and program goals and objectives. If the youth remains in the facility, the youth receives a periodic progress review every 90 days. Although these reviews may include an assessment of when the youth should be released from the facility on aftercare, no specific aftercare plan is required.

Occasionally, there is a gap in time between the date on which the youth is considered to be eligible for release and the date an opening is available in an aftercare program in the youth's home community. Also, a representative of the county from which the youth was transferred is not always present when decisions are made regarding the youth's programming

while in the facility, or aftercare planning upon release from the facility.

Many Committee members expressed concern that the planning for each youth transferred to a juvenile correctional facility should include, at a minimum, an assessment of some aspects of the conditions under which the youth will be returned to the community. The Committee concluded that an aftercare plan should be prepared before the youth's release from the facility, as a means of enhancing the continuity of programming needs received within the facility and after the youth's release.

In addition, Committee members heard testimony from representatives of several counties regarding the difficulty counties have in returning a youth to the facility when the youth violates a condition of aftercare. Currently, if a youth who is released from a secured correctional facility on aftercare is released to a county-provided aftercare program, and the youth's custody has been transferred to the county or the child's parents, the county must petition the circuit court for a change of placement under s. 48.357 (3) in order to revoke the youth's aftercare status. If the youth violates a condition of aftercare and the violation is, itself, a delinquent act, the county may file a new delinquency petition and have the youth committed to the DHSS for up to a year, plus any extensions.

By contrast, if the youth is released to an aftercare program provided by the DHSS, under contract with the county, the DHSS ordinarily retains legal custody of the youth. If the youth violates a condition of aftercare, the DHSS does not need a court order to revoke the youth's aftercare status and return the youth to a secured correctional facility. Instead, the youth is entitled to an administrative hearing conducted by a DHSS hearing examiner on the issue of whether condition of the aftercare supervision was, in fact, violated. The youth may waive the administrative hearing on the issue of revocation.

The difference between procedures used by counties and by the DHSS in revoking aftercare presents two basic problems:

a. Counties that provide their own aftercare services often find it difficult, if not impossible, to revoke aftercare when a condition of aftercare has been violated. Often, no punitive action is taken unless the violation constitutes a delinquent act, in which case the county initiates a new delinquency petition.

b. In cases where aftercare services are provided by the DHSS under contract with the county, the county has little or no control over the return of the youth to a juvenile correctional facility during the aftercare period. In some instances, the aftercare status of a youth may be revoked by the DHSS and the youth returned to the facility, at county

expense, in situations in which the county may question whether revocation was necessary. In most cases, no revocation hearing is ever held because the youth has waived the right to a hearing.

2. Description of Bill

a. Aftercare Plan

1989 Assembly Bill 538 requires the DHSS or a county department providing aftercare supervision, if any, to develop an aftercare plan for a youth who is released from a secured correctional facility. The plan must include the following:

(1) The minimum number of supervisory contacts per week between the youth and the aftercare staff.

(2) The conditions, if any, under which aftercare may be revoked.

(3) Services or programming to be provided to the youth while on aftercare.

(4) The estimated length of time aftercare supervision and services must be provided to the youth.

The plan must be completed no later than 180 days after the youth's admission to the facility or 30 days prior to the end of a court-ordered placement, whichever occurs earlier. The youth's release from the facility is not contingent on whether the plan requirement is met. The plan must be submitted to the JORP.

The county or the state department required to prepare the aftercare plan is authorized to seek a waiver of the aftercare plan requirement for youths whom the state or county anticipates will not be released until at or near the age limit for juvenile court jurisdiction, or who are detained in the facility under extended jurisdiction provisions. Under the Bill, for youths for whom the aftercare plan requirement has been waived, the JORP must notify the county or the state division not less than 60 days prior to the youth's release, so that an aftercare plan may be prepared prior to the youth's release.

b. Administrative Revocation of Aftercare

Assembly Bill 538 permits counties to use the same administrative procedures currently used by the DHSS when revoking a youth's aftercare status and returning the youth to a secured correctional facility. Thus,

the county would not be required to use the change of placement procedure for this purpose.

In addition, the Bill creates the following requirements for hearings on aftercare revocation, whether conducted for youths on state aftercare or county aftercare:

(1) Requires a hearing on the issue of revocation of aftercare to be held within 14 days of the date the youth is taken into custody; however, this time limitation may be waived under an agreement between the DHSS and the youth or the youth's legal counsel.

(2) Requires the youth to have access to legal counsel prior to making a determination whether to waive the administrative hearing.

(3) Requires the county department or other person having legal custody over the youth while on aftercare to transfer legal custody to the DHSS at the time the youth is transported to the secured correctional facility prior to the revocation hearing. If the youth does not remain in custody, the DHSS may transfer custody back to the county or the youth's parents or guardian.

(4) Requires the DHSS to promulgate administrative rules setting forth standards to be used at the administrative hearing to determine whether aftercare should be revoked. These standards must specify that the burden is on the state to show, by evidence that is clear, satisfactory and convincing, that the youth violated a condition of aftercare supervision. If a violation is found, the hearing officer must then determine whether confinement in a secured correctional facility is necessary to protect the public or necessary to provide for the youth's rehabilitation.

The DHSS is required to promulgate these rules as emergency rules, although the DHSS need not find that an emergency exists. These rules must be promulgated by April 1, 1990.

The Bill specifies that the new procedures for administrative revocation of aftercare apply to youths released on aftercare from a secured correctional facility on or after the effective date of the act.

Subsequent to the Special Committee's final meeting, but before the bill draft was ready for introduction in the Legislature, 1989 Wisconsin Act 31 (the Biennial Budget Act) made a number of changes in the Children's Code relating to the creation of a new Department of Corrections. Under Act 31, effective January 1, 1990, the juvenile correctional service and aftercare functions of the DHSS will be transferred to the new Department of Corrections.

Act 31 also requires the DHSS to submit proposed legislation to the Joint Committee on Finance to return some or all of the functions relating to juvenile corrections and aftercare to the DHSS. As of the date of this Report, that proposed legislation has not been submitted; therefore, it is unknown to what extent these functions will remain with the Department of Corrections.

Because Act 31 requires the juvenile-related functions to be transferred to the new Department of Corrections on January 1, 1990, 1989 Assembly Bill 538 includes provisions to transfer the appropriate aftercare-related functions to the new Department of Corrections as of that date.

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APPENDIX

COMMITTEE MATERIALS

Staff Materials

1. Research Bulletin 88-1, Juvenile Offender Dispositions and Waiver of Juvenile Court Jurisdiction Under the Wisconsin Children's Code (August 4, 1988).

2. MEMO NO. 1, Selected Bibliography of Articles, Relating to the Assignment of the Special Committee (October 18, 1988).

3. MEMO NO. 2, Procedures Relating to Aftercare Placement and Revocation of Aftercare (October 26, 1988).

4. MEMO NO. 3, Recommendations of the Subcommittee on Education (February 22, 1989).

5. MEMO NO. 4, Recommendations of the Subcommittee on Aftercare (February 22, 1989).

6. EDUCATION SUBCOMMITTEE MEMO NO. 1, Confidentiality of Children's Records (February 6, 1989).

7. EDUCATION SUBCOMMITTEE MEMO NO. 2, Issues for Further Discussion of Subcommittee on Education (February 14, 1989).

8. EDUCATION SUBCOMMITTEE MEMO NO. 3, Recent Legislation Relating to Confidentiality of Children's Records (February 14, 1989).

9. AFTERCARE SUBCOMMITTEE MEMO NO. 1, Issues for Further Discussion of the Subcommittee on Aftercare (February 16, 1989).

10. Juvenile Justice System Changes Discussion Outline for December 22, 1988 meeting of the Special Committee.

11. Discussion outline for the February 6, 1989 meeting of the Subcommittee on Education (February 6, 1989).

12. Discussion outline for the February 9, 1989 meeting of the Subcommittee on Aftercare (February 9, 1989).

Other Materials

1. A paper, "Secretary's Report on Juvenile Justice in Wisconsin," prepared by the Department of Health and Social Services (DHSS) (July 11, 1988).

2. A preliminary draft, "Wisconsin's Juvenile Justice System," prepared by the DHSS (August 2, 1988).

3. Memorandum from Christopher Baird, National Council on Crime and Delinquency (NCCD), Summary of Results of Wisconsin Juvenile Classification Study (undated).

4. Memorandum from Representative Rebecca Young, Chairperson, relating to reports from the DHSS on Wisconsin's Juvenile Justice System (August 23, 1988).

5. Charts relating to facts about juvenile crime and juvenile incarceration, submitted by Christopher Baird, NCCD, as part of his presentation to the Special Committee on Juvenile Justice Issues on August 29, 1988.

6. Executive Summary: The Impact of Juvenile Court Sanctions: A Court That Works, NCCD (January 1988).

7. Written testimony of Thomas Brophy, Director, Milwaukee County Human Services Department, before the Special Committee on Juvenile Justice Issues (September 22, 1988).

8. Selected Text from the 1987 Status Report on Community-Based Juvenile Services, Kenosha County Department of Social Services (April 26, 1988).

9. Memorandum from Ken Streit, Division of Policy and Budget, DHSS, providing information on the results of the NCCD Wisconsin Juvenile Classification Study (October 17, 1988).

10. Letter and attached data from Ruth Diehl, Assistant Director, Office of Management Information, DHSS, relating to delinquents and status offenders receiving state services (October 19, 1988).

11. Memorandum from Daryl Hinz, Fiscal Analyst, Legislative Fiscal Bureau, Juvenile Correctional School Population Characteristics (October 25, 1988).

12. Memorandum from Ken Streit, Division of Policy and Budget, DHSS, Comparison of 1975-1978 and 1987 Division of Corrections' Admission Costs by County Groups (October 31, 1988).

13. Materials and data relating to youth aids history and current county experience from Ken Streit, DHSS, and Chuck Wilhelm, Director of Policy and Budget, DHSS (undated).

14. Letter and attached memoranda from John E. Ross, Director, Bureau of Juvenile Services, DHSS, relating to the Milwaukee County Early Release Intensive Supervision Program (ERIS) (November 18, 1988).

15. Memorandum from Representative Rebecca Young, Chairperson, regarding policy questions for further consideration by the Special Committee (November 18, 1988).

16. Written testimony of Cheryl A. Huenink, Director, Bayfield County Department of Social Services, before the Special Committee on Juvenile Justice Issues (December 11, 1988).

17. A paper, "Madison Metropolitan School District Secondary School Division: Position Paper: High School Student Transition Program" (December 8, 1988).

18. "Youth Aids Performance Indicators Advisory Committee Report and the Department of Health and Social Services Final Recommendation," DHSS (December 21, 1987).

19. Synopsis: Governor's Juvenile Justice Task Force Recommendations, submitted by the Wisconsin Office of Justice Assistance (October 7, 1988).

20. Chart, County of Origin and Appropriateness of Reception Center Admission Reviews, July 1-September 30, 1988, submitted by Don Schmitt, Juvenile Offender Review Program (undated).

21. Governor's Juvenile Justice Task Force Report (November 1988).

22. Memorandum, Recommendations for a More Effective Juvenile Justice System in Wisconsin, N. Clark Earl, Chairperson, Urban Caucus (January 23, 1989).

23. Article, "Who's Punishing Whom" by Richard Green, Forbes (March 21, 1988).

24. A publication, Arrests of Juveniles in Wisconsin 1978-1987 (With Correctional Institution Admissions), from the Wisconsin Statistical Analysis Center, Office of Justice Assistance (undated).

25. Summary and attached draft, Changes in Chapter 48, Stats., Proposed by the Circuit Court Judges of Wisconsin (June 7, 1988).

26. Letter from Michael Moore, Ethan Allen School, regarding the Liaison Teacher Program (January 11, 1989).

27. Letter from Doug Haselow, Director, Governmental Relations, Milwaukee Public Schools, relating to changes in the law regarding exchange of information among youth serving agencies (February 8, 1989).

28. Letter from Paul H. Kusuda, ACSW, suggesting changes in the juvenile justice system (January 12, 1989).

29. Letter and attached material from Representative Sue Rohan, relating to a proposal to expand the Headstart Early Childhood Program in Wisconsin (March 3, 1988).

30. A letter to Representative Rebecca Young, Chairperson, from Representative Peter W. Barca, relating to proposals for anti-gang programming and youth employment programming (March 16, 1989).

31. Memorandum, Estimated Number of Eligible Participants from Milwaukee County in the Early Intervention Program Under WLCS: 551/2, to Chairperson Rebecca Young from Pam Russell, Staff Attorney, Legislative Council (March 16, 1989).

32. Materials on the Liaison Teacher Program submitted by Michael Moore, Ethan Allen School (undated).

33. Recommendations of the Hearings on Confidentiality of Juvenile Records Conducted by Milwaukee County Children's Court Center Advisory Board (July 19, 1988 and August 2, 1988).

34. Milwaukee County Youth Initiative: Final Report (October 10, 1988).

35. A table, "1987 Youth Aids Summary--Circuit Breaker Impact Analysis," prepared by Daryl Hinz, Fiscal Analyst, Legislative Fiscal Bureau (undated).

36. Article and attachments, "Juvenile Supervision Contact Standards," DHSS (May 29, 1988).